THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.9688 of 2000

Dated: 24.10.2007

Between:

Srinivasa Cotton Traders,
Rep. by its Proprietor
K.Srinivasa Rao.

.. Petitioner

And

The Joint Director of Marketing,
Vijayawada,
and another.

.. Respondents

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.26491 of 1998

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ORDER:

This writ petition is filed for a Writ of Mandamus declaring the proceedings of the 1st respondent in L.Dis.No.90/A/2000, dated 18.03.2000, as illegal and arbitrary, and consequently direct the respondents to consider the appeal preferred by the petitioner on merits and pass such other suitable order.

2. Heard Sri C.Kodanda Ram, the learned counsel for the petitioner, and Sri K.Madhava Rao, learned Standing Counsel for the respondents.

3. It is brought to the notice of this Court that when similar matter has come up for hearing in W.P.No.8093 of 2001, the learned Single Judge of this Court has taken the view that the powers under Article 226 of the Constitution of India are not intended to facilitate avoidance of obligations nor to bypass the procedure prescribed for maintainability of appeal, and also has taken a view that once the order passed by the statutory authority in rejecting the appeal does not suffer from manifest error, the same cannot be subjected to judicial review, and accordingly, dismissed the writ petition. Questioning the same, it appears, the writ petitioner therein preferred Writ Appeal i.e., W.A.No.1745 of 2002, wherein the Division Bench of this Court confirmed the order passed by the learned Single Judge in the said

writ petition, and thus, dismissed the Writ Appeal.

4. In the instant case also, it is clear that the petitioner has not paid the market fee as provided for under Section 12 (e) (ii) of the Andhra Pradesh (Agricultural Produce & Livestock) Markets, Act, 1966 (for short, 'the Act'), and hence, the appeal preferred by him before the Joint Director of Marketing, Vijayawada-1st respondent herein was rejected.

5. Inasmuch as the issue that arises for consideration in this Writ Petition is squarely covered by the judgment of the learned Single Judge in W.P.No.8093 of 2001, dated 08.02.2002, and as the same was even confirmed in W.A.No.1745 of 2002, dated 07.03.2003, this writ petition is also liable to be dismissed on the same lines.

6. Subject to the above observations, this Court has no hesitation to come to a similar conclusion that was made in W.P.No.8093 of 2001, dated 08.02.2002, that the order passed by the statutory authority in rejecting the appeal does not suffer from manifest error and the same cannot be subjected to judicial review. The writ petition is accordingly dismissed on the same lines. No order as to costs.

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(GOPALA KRISHNA TAMADA,J)

Dt.24.10.2007

v v